



RE-USE REGULATIONS & BEST PRACTICES FOR BUYOUT PROPERTIES

**Navigating Federal Mandates, State Processes
and Resilient Design in Vermont**

Prepared by Vermont Emergency Management



BACKGROUND

FEMA HMA, FMA, FRCF (state funded) buyout properties preserved as open space.

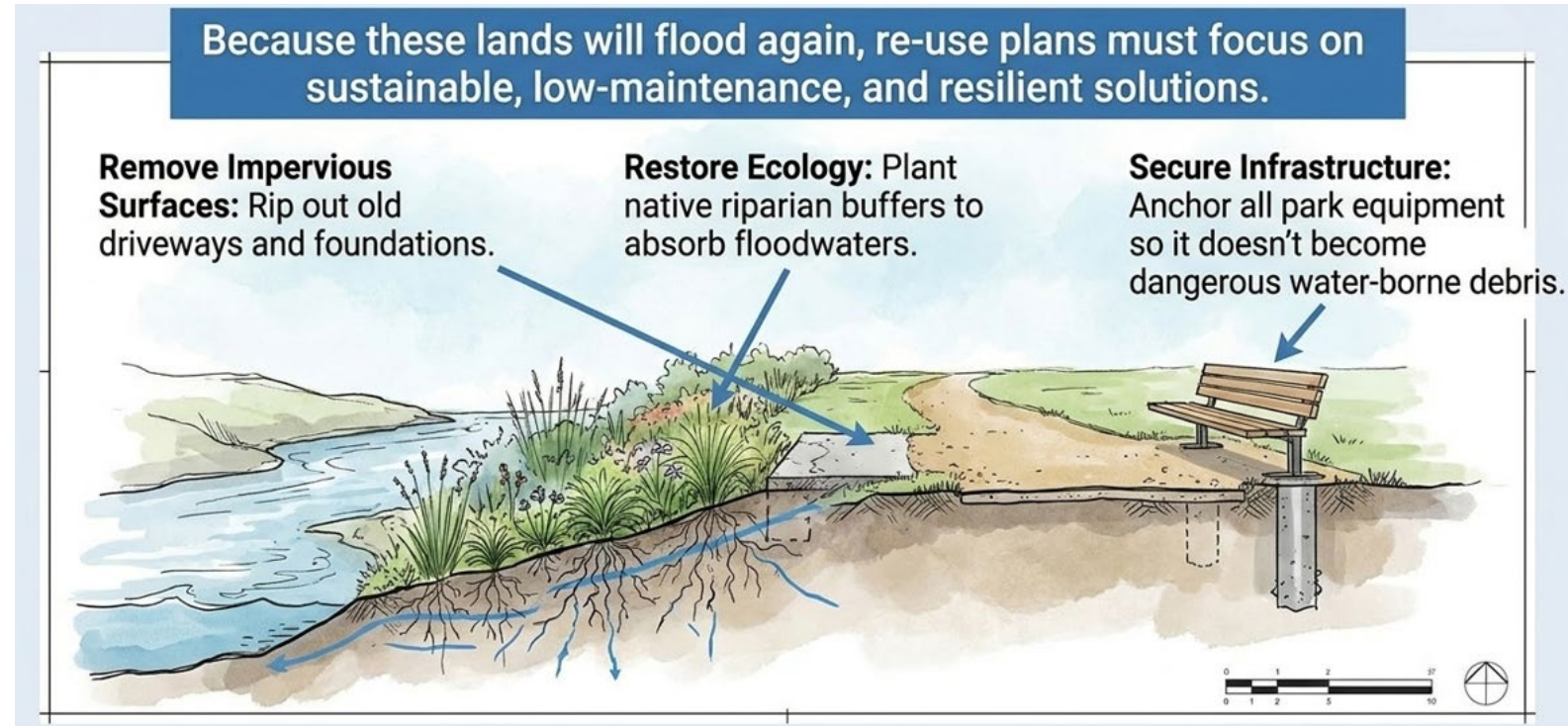
Any reuse requires State & FEMA approval per 44 CFR Part 80.*

*State funded buyouts have the same restrictions as FEMA ones, but do not require FEMA approval



WHY BUYOUT RE-USE MATTERS

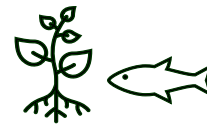
- **Reduces long-term flood risk.**
- **Restores natural floodplain functions.**
- **Provides community amenities.**
- **Ensures compliance & future funding.**





The Baseline: Open Space in Perpetuity

Federal law (44 CFR Part 80) Mandates that FEMA-funded buyout properties be dedicated and maintained as open space forever



Primary Function

Restore and conserve
natural floodplain storage
function



Permanent Deed Restriction

Binds all future owners to
these open-space rules
without exception

ONGOING STEWARDSHIP & MONITORING



3-Year Cycle: Subrecipients (municipalities) must inspect properties every 3 years. VEM initiates the process and towns submit a report certifying the land remains compliant and open space.

Right of Entry: VEM and FEMA retain the right to enter and inspect the parcel to ensure compliance.

State sends inspection reports to FEMA every 3 years to ensure federal compliance.

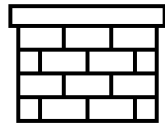
DEED RESTRICTIONS & PROHIBITIONS

What is legally banned in perpetuity on acquired parcels?



Permanent Open Space

The land must be dedicated and maintained in perpetuity as open space to restore and conserve natural floodplain functions



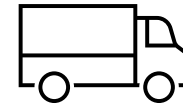
No Walled Buildings

Manufactured homes, permanent residential dwellings, and closed-in commercial buildings are strictly prohibited



No Hard Infrastructure

No paved roads, highways, bridges, or paved parking lots. No flood-control structures (such as levees, dikes, berms, or floodwalls)



No Commercial or Utility Uses

No commercial inventory storage or parking of commercial/ governmental vehicles.



Transfer of Ownership

Land can only be transferred to another public entity or a qualified conservation organization, and ONLY with prior FEMA approval

PERMITTED LAND USE (44 CFR 80.19)

Generally Allowable

- Parks, nature trails, wildlife habitats.
- Open-sided structures (pavilion)

Allowable with Caution

- Agriculture (cultivation/grazing).
- Open-sided structures.
- Restrooms (if FEMA-approved).

Prohibited

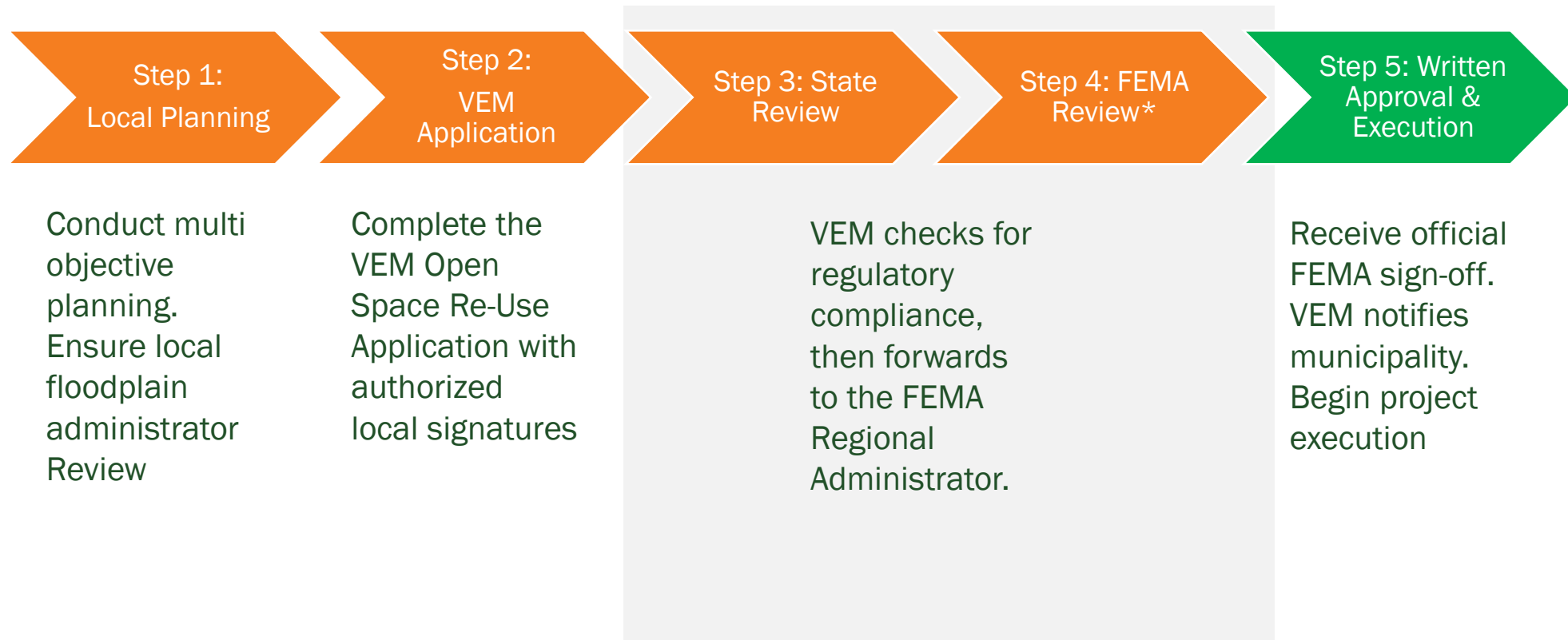
- Walled buildings.
- Flood control structures.
- Paved roads or parking lots.
- Commercial storage or hazardous materials.
- Fences

THE GOLDEN RULE: NO ACTION WITHOUT APPROVAL



The Rule: No work, development, or change in land use, even if it seems allowed (like planting a tree, building a park or garden) – may begin until formal written approval is secured from FEMA via VEM*

THE PATH TO PROJECT APPROVAL



APPLICATION PROCESS OVERVIEW

- **Applicant & property details**
- **Proposed reuse plan**
- **Regulatory compliance**
- **Community involvement**
- **Long term maintenance plan**



LOCAL REGULATORY ALIGNMENT

Zoning compliance

- All proposed work must meet local zoning, comprehensive land-use plans, and municipal floodplain ordinances
- Projects must comply with the minimum standards of the National Flood Insurance Program (NFIP) under **44 CFR § 60.3**

State Permit Coordination: Secure any necessary state permits (such as ANR Rivers floodplain or CWA stormwater permits) before submitting the final package

Local approval: Signatures from the Town's authorized agent (Mayor/City Manager) and the Local Floodplain Administrator



COMMUNITY ENGAGEMENT



Document public involvement (if any)

- Workshops & meetings
- Reuse must also align with **Local Hazard Mitigation Plan (LHMP)**

Neighbor Stewardship: Community buy-in is critical in "patchwork" or "holdout" buyout zones where the parcel directly impacts the daily lives of remaining residents

- Prevents empty wastelands & illegal dumping

MONITORING & MAINTENANCE

Long-term responsibility: The application must specify a dedicated municipal department or partner organization (e.g., local parks department or a land trust) responsible for long-term stewardship

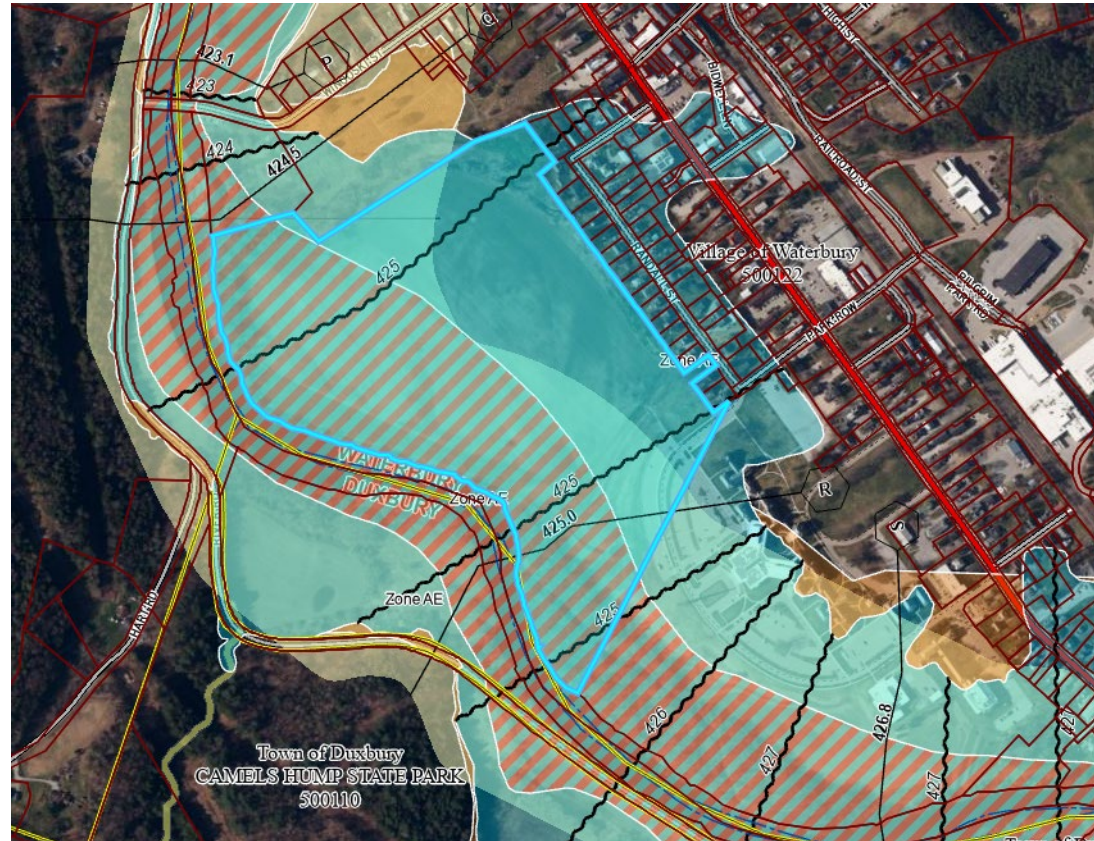
Funding: The town must certify that it has secured its own state, local, or partner funding to build and manage the site, as federal acquisition grants do not cover post-acquisition costs

Compliance monitoring every 3 years



REQUIRED ATTACHMENTS

- **Maps showing SFHA + River Corridor.**
- **Conceptual design/site plan.**
- **Site photographs.**
- **Permits.**
- **Elevation certificate (for structures, pavilions)**



STATE REVIEWER CHECKLIST

- **Complete application.**
- **Open-space dedication.**
- **Allowable use validation.**
- **No prohibited obstructions.**
- **State and local permits (if required)**
- ***Elevation/floodproofing documentation for structures**

STATE REVIEWER CHECKLIST
FEMA Open Space Property Re-Use Application Evaluation Tool

Purpose: This technical checklist is designed for Vermont Emergency Management (VEM) state reviewers to formally evaluate local re-use applications for properties acquired via FEMA Hazard Mitigation Assistance (HMA) and FEMA Swift Current programs. All cross-referenced federal citations correspond to 44 CFR Part 80.
Rule: No work, development, or change in land use may begin until formal written approval from the FEMA Regional Administrator is secured.

Subrecipient/Town: _____ Project Number: _____
Property SPAN #(s): _____ Reviewer Name: _____
Date Received: _____ Review Date: _____

1. Administrative & Applicant Information

EVALUATION CRITERION & REVIEWER NOTES	SUBMISSION REQUIREMENTS / DETAILS	APPLICATION LOCATION	AUTHORITY
☐ Complete Contact & Grant Info Notes: _____	Section I must include Subrecipient name, Project Number, Primary Point of Contact, and complete contact info.	See/Para: _____	App Form Sec I
☐ Property Identifiers & Address Notes: _____	Section II must clearly list complete physical addresses and the State Property Account Number (SPAN).	See/Para: _____	App Form Sec I & II
☐ Coordinates Notes: _____	Latitude and longitude coordinates must be specified exactly to the 8th decimal place.	See/Para: _____	Draft Guid. P. 6 44 CFR 80.21(c)
☐ Current Site Condition Notes: _____	Documentation detailing the current post-demolition site state (e.g., cleared lot, initial graded footprint).	See/Para: _____	App Form Sec II 44 CFR 80.21(b)

2. General Land-Use Mandate & Compatibility Check

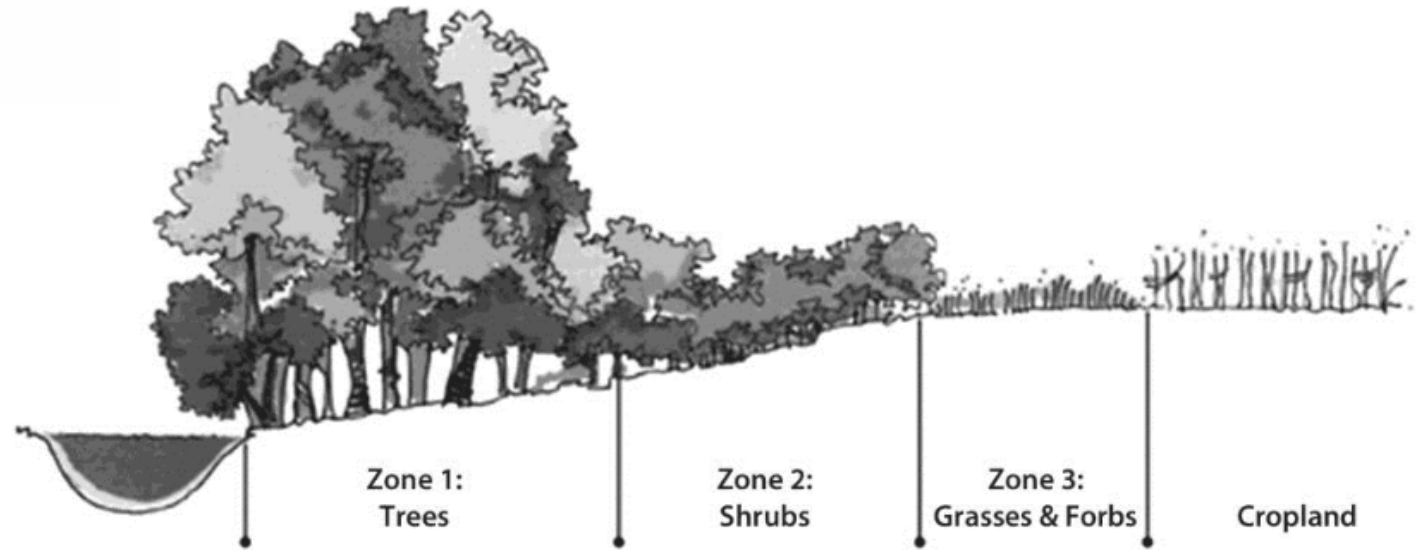
EVALUATION CRITERION & REVIEWER NOTES	SUBMISSION REQUIREMENTS / DETAILS	APPLICATION LOCATION	AUTHORITY
☐ Perpetual Open-Space Dedication Notes: _____	Verify the proposed re-use plan explicitly details maintaining and preserving the land in perpetuity as open space.	See/Para: _____	44 CFR 80.19(a) Draft Guid. P. 3
☐ Floodplain Function Conservation Notes: _____	The proposed scope must demonstrate alignment with natural floodwater storage restoration and resource conservation.	See/Para: _____	44 CFR 80.19(a) Draft Guid. P. 3

REFRAMING REUSE OPPORTUNITY

Benefits of “Riparian Town Forests”

Traditional town forests provide physical and financial assets, commonly from logging operations

Riparian Town Forests can be viewed as natural assets where the primary "harvest" is not timber, but rather the financial savings generated by natural flood mitigation



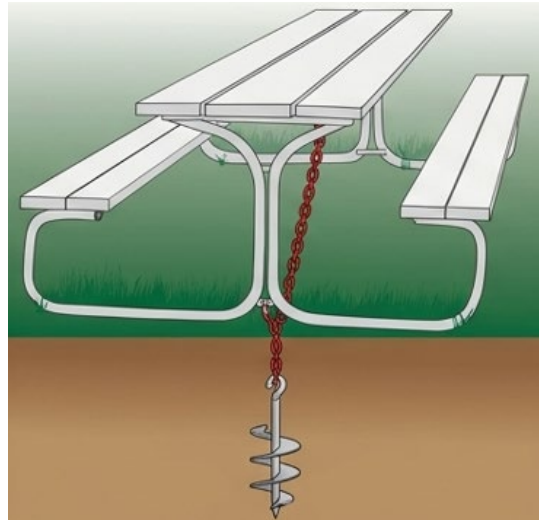
PUBLIC INFRASTRUCTURE: ANCHORING TECHNIQUES (FEMA P-181)

Option 1: Surface Mounts



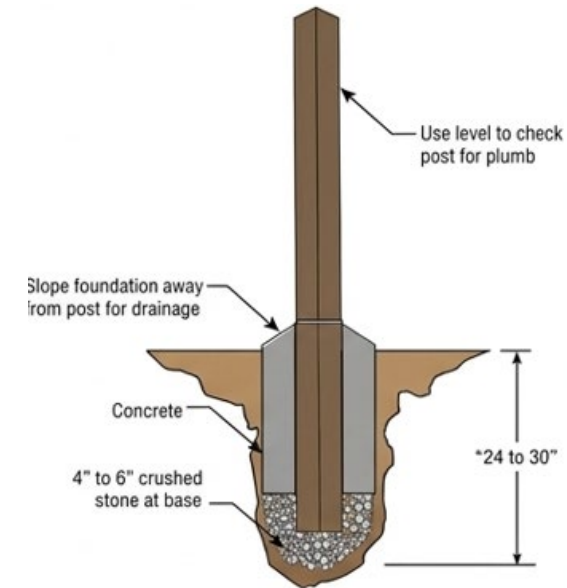
Bolting clamps directly into existing concrete pads using wedge lock anchors

Option 2: Chaining



Attaching steel cables/chains to heavy-duty helical ground anchors (ideal for moveable tables)

Option 3: Embedding



Sinking posts 24-30 inches deep into concrete and 4-6 inches of crushed stone for drainage (ideal for permanent grills)

*Unsecured benches, grills, and tables become dangerous debris. Hardware must be galvanized or stainless steel

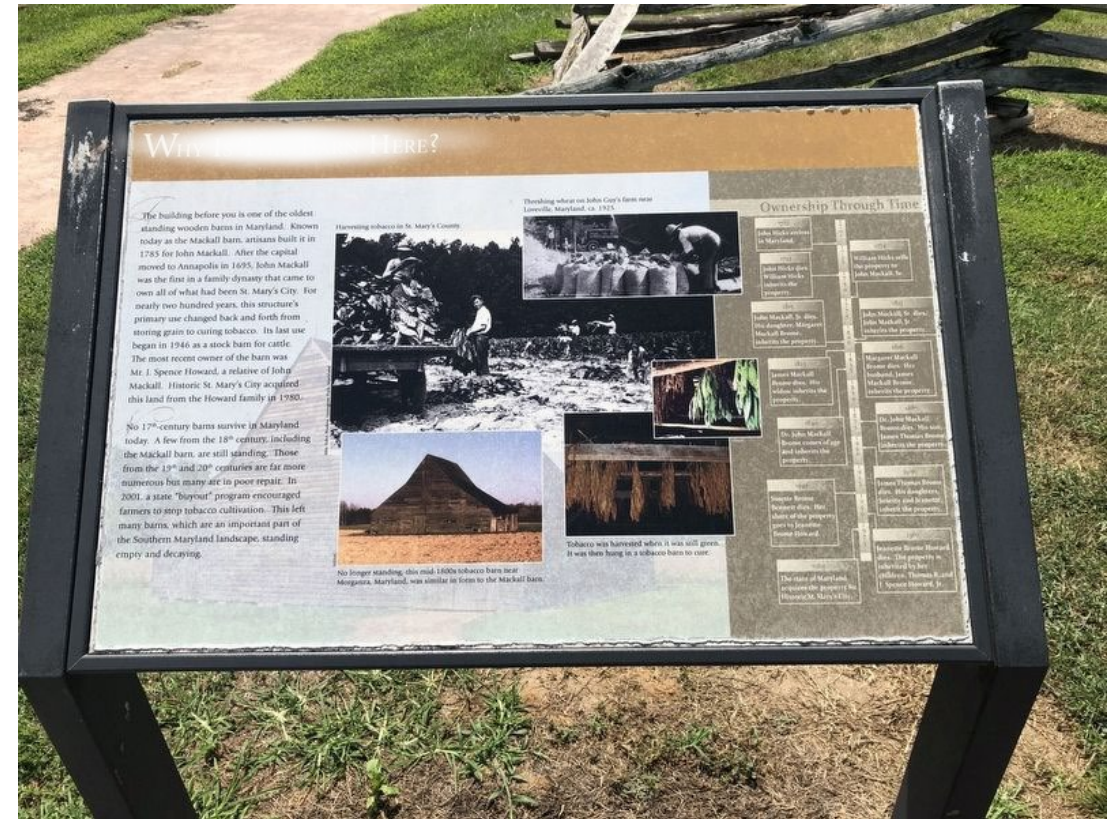
SIGNAGE & WHY IT IS IMPORTANT

Commemorative Landscapes: Helps transition empty lots into spaces of remembrance

Educational opportunity: Low-cost infrastructure to turn buyout lots into outdoor classrooms

Prevent Illegal Dumping: Prevents illegal trash dumping or unauthorized vehicular use

Establishing Stewardship: Establish "ownership" of the space, signaling that the land is actively cared for



KEY TAKEAWAYS

1. Honor the Perpetuity

Buyout lands are permanently restricted to open space. No walled buildings, no pavement.

2. Ask First, Build Later

VEM and FEMA must approval all plans in writing before any work begins.

3. Design for Water

Expect the land to flood. Use resilient design and anchoring techniques to protect infrastructure.



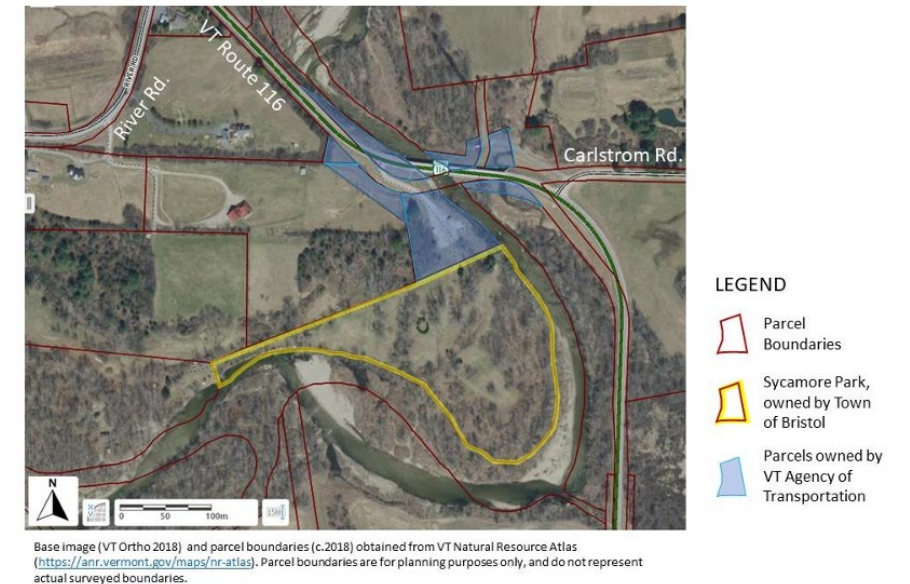
SYCAMORE PARK – BRISTOL, VT

Return to natural floodplain function

Figure B1. Sycamore Park vicinity in 1960.



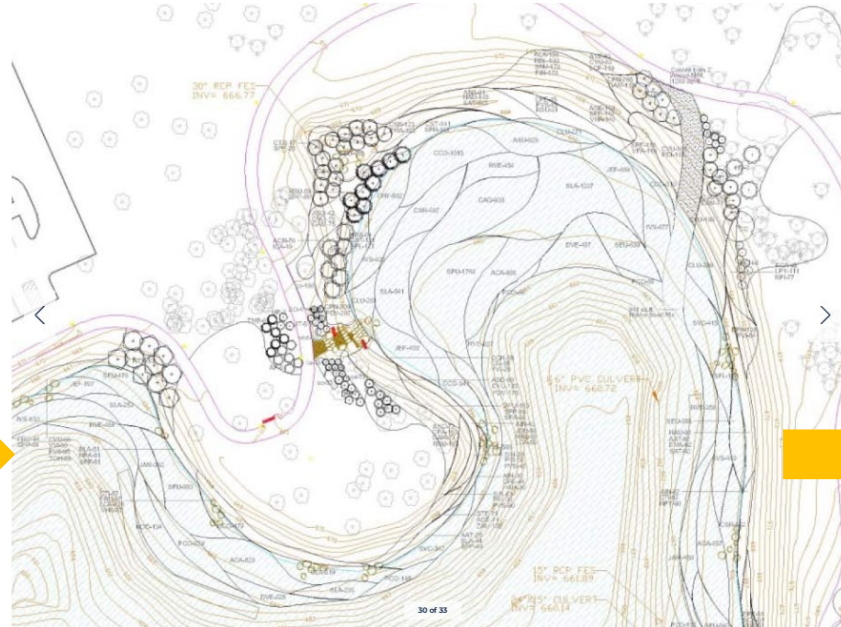
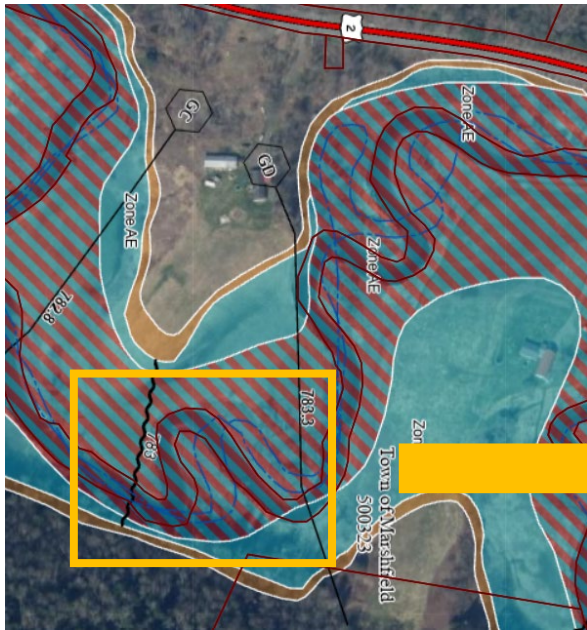
Figure 2. Residential homes and driveways (Palmer's Court) occupied Sycamore Park prior to the flood of 1998; houses were removed during a FEMA buyout following the flood.



COMMON RE-USE QUESTIONS

TREES

- A re-use application is required for trees and other plantings.
- FEMA needs confirmation that plantings will not cause a rise in base flood elevation (BFE)
- A map showing the location of where the trees will be planted and the species is required



COMMUNITY GARDENS

While community gardens are technically allowed, implementing them on buyout parcels is often far more difficult than communities anticipate

Strict Infrastructure Restrictions: Tool sheds, fencing, and raised beds are not permitted

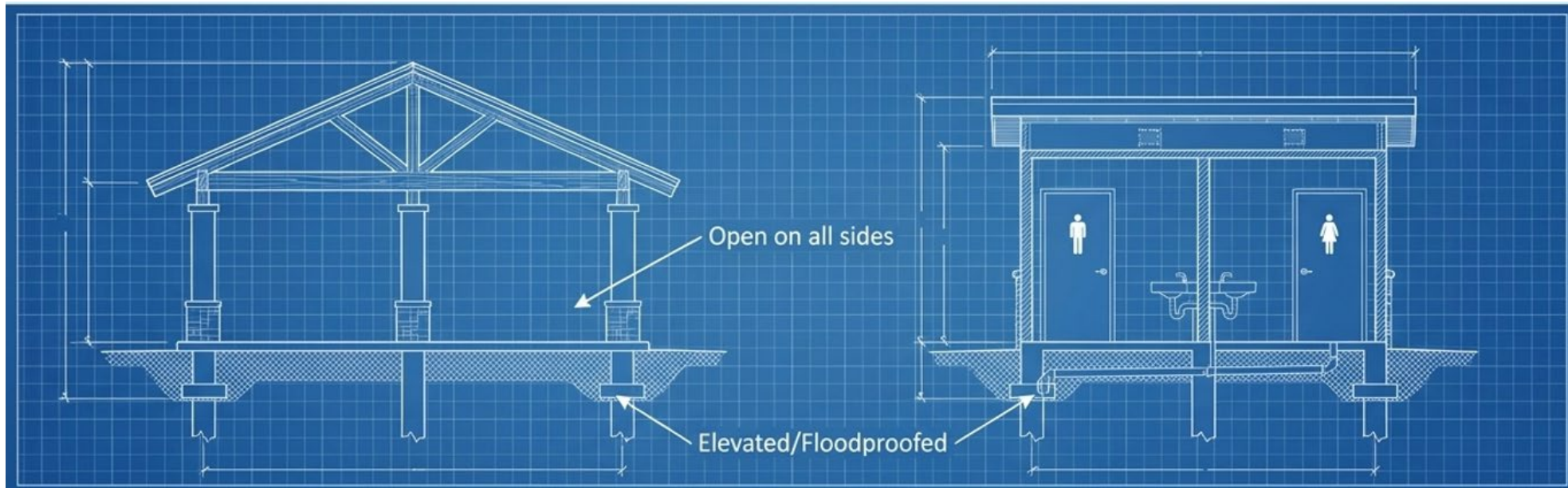
Water Access: Utilities are terminated during demolition

Volunteer Burnout and Maintenance: If neighborhood enthusiasm wanes, the garden can quickly become overgrown or fall into disrepair

Soil Quality and Contamination Risks: Soil may contain remnants of household chemicals, oil, or lead paint from the demolished structures. Soil can also contain contaminants from flood waters.



STRUCTURES & RESTROOMS: STRICT LIMITATIONS



No new structures are permitted, EXCEPT:

- Public restrooms
- Public Buildings open on all sides (ex picnic pavilions) related to open space use

The Elevation Catch: Any permitted structure must be elevated or floodproofed to the Base Flood Elevation (BFE) + 2 foot of freeboard (or local standard, whichever is stricter).

Requirement: A completed elevation certificate signed by a licensed engineer or surveyor is required

READY TO PLAN? WE ARE HERE TO HELP

Essential Resources

VEM Open Space Re-Use Application

VEM Open Space Re-Use Guidance

FEMA P-181 (Anchoring and Mitigation Guidance)

FEMA 44 CFR Part 80 Regulations

Conservation Commissions

Regional Planning Commissions

Use the following link or QR code to access the VEM Reuse Guidance and Application Library

<https://arcg.is/0vqC042>

